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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/081,742 | 02/22/2002 | Rick G. Craig | T9407.NP | 9419 |

7590 08/24/2006

THORPE, NORTH & WESTERN, L.L.P.
P. O. Box 1219
Sandy, UT 84091-1219

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| EXAMINER |
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VIG, NARESH

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| ART UNIT | PAPER NUMBER |
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3629

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/081,742 | Applicant(s) CRAIG ET AL. | |
| | Examiner Naresh Vig | Art Unit 3629 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20020604</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

In the Oath/Declaration filed 04 June 2004, applicant claims priority to US Provisional Application 60/271,269. The claimed priority date mentioned is not the filing date of the Provisional Application. To expedite the prosecution of this application, examiner considers 24 February 2001 (date of filing of Provisional Application) as the claimed priority date of the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 9 – 10, 15 and 17 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over archived web pages of Good et al. US Publication US 2001/0039496 in view of Bezos et al. US Application 6,029,141.

Regarding claims 1 and 10, Good teaches method for referring a buyer (a buyer is a user who can be an actual buyer, or, a representative of a buyer like a Buyer's

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broker) from a referring marketer (Good, method for managing real estate brokerage referrals) to a listing sales broker (Good, apartment complex) through a collective listing organization (Good, stores a database of real estate rental listings). Good teaches:

storing a plurality of sales listings from the listing sales broker in a database (stores a database of real estate rental listings) [Good, abstract, Fig. 2 and disclosure associated with Fig. 2];

displaying the plurality of sales listings from the database for a buyer through a computer network interface associated with each referring marketer [Good, Fig 2 and disclosure associated with Fig. 2];

recording referral information entered into the computer network interface by the buyer who views the plurality of sales listings (An individual referral fee agreement is generated which is specific to the potential tenant and to the specific desired apartment complex) [Good, abstract];

Good does not explicitly teach transferring the referral information to the listing sales broker. However, Good teaches capability for electronically transmitting an agreement (referral agreement) that is generated to the potential tenant (remoter processor of the tenant) who delivers the agreement to the agent for the desired apartment complex for acceptance by that agent. Bezos teaches transferring the referral information to the listing sales broker (merchant) [Bezos, abstract].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Good as taught by Bezos and transmit referral

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agreement for allowing the listing sales broker to identify the the referring associate [Bezos, abstract].

Good in view of Bezos teaches paying the collective listing organization (referring entity) a commission when the buyer purchases a sales listing from the listing sales broker (If the customer subsequently purchases the product from the merchant's site, a commission is automatically credited to an account of the referring associate) [Bezos, abstract].

Regarding claim 2, it is inherent that Good in view of Bezos teaches paying the referring broker (Good, Bezos) a portion of the commission for electronically referring the buyer to the listing broker, when the buyer purchases a sales listing from the listing broker [Bezos, abstract].

Regarding claims 3 and 15, it is inherent that Good in view of Bezos teaches paying the referring marketer (Good, Bezos) a portion of the commission for electronically referring the buyer to the listing sales broker, when the buyer purchases the sales listing from the listing sales broker [Bezos, abstract].

Regarding claims 9 and 18, as responded to earlier, it is inherent that Good in view of Bezos teaches requiring a buyer to enter referral information to access detailed information about a sales listing (collect buyer information needed to generate referral agreement).

Regarding claim 17, Good in view of Bezos teaches displaying the plurality of real estate listings to the real estate buyer from the database through a web site associated with each referring real estate broker [Fig. 2 and disclosure associated with Fig. 2].

Claims 4 – 8, 11 – 14, 16 and 19 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over archived web pages of Good et al. US Publication US 2001/0039496 in view of Bezos et al. US Application 6,029,141 and Modern Real Estate Practice by Galaty et al. hereinafter known as Galaty.

Regarding claims 4 and 11, it is inherent that Good in view of Bezos teaches paying a commission to the collective listing organization when the buyer purchases a sales listing from the listing broker (old and know in Real Estate Sales that commission paid by seller at the time of closing is split between listing broker and selling broker). Good in view of Bezos does not explicitly teach to the collective listing organization to split the commission with the referring broker. However, Galaty teaches that a subagency is created when one broker appoints other brokers to help perform function on principal's behalf [Galaty, page 47], and, commissions can be shared between two cooperating brokers [Galaty, page 67, 68].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Good in view of Bezos as taught by Galaty to compensate the entities who were the procuring cause for the closing the transaction.

Regarding claim 5, as responded to earlier in response to claims 1 – 4, it is inherent that Good in view of Bezos and Galaty teaches paying the collective listing organization a referral fee that is owed by the listing broker [Galaty. Page 68] to the collective listing organization and the referring broker or marketer when the buyer purchases a sales listing from the listing sales broker (old and known in Real Estate Sales that the referring broker gets a referral fee for referring a client to another broker).

Regarding claims 6 – 7 and 13 – 14, as responded to earlier in response to claim 1 – 5, it is inherent that Good in view of Bezos and Galaty teaches paying the collective listing organization negotiated referral fee (one half or 12.5% or any other negotiated split ratio) for the sale by the listing sales broker to the referring marketer when the buyer purchases a sales listing from the listing sales broker (applicant is claiming content of an agreement which is usually negotiated between referring broker and servicing broker as their invention) [Galaty, page 67, 68].

Regarding claims 8 and 16, as responded to earlier, it is inherent that Good in view of Bezos teaches recording contact information entered by the buyer who desires

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further information about at least one property listing (applicant is claiming type of buyer as their invention) [Good, generate referral agreement].

Regarding claim 12, as responded to earlier in response to claim 10, Good in view of Bezos and Galaty teaches paying the collective listing organization a commission when the real estate buyer purchases the real estate listing related to the referral information sent to the listing real estate broker.

Regarding claim 19, as responded to earlier, Good in view of Bezos and Galaty teaches paying the collective listing organization only for referrals from the referring real estate broker to the listing real estate broker that are not owned by the listing real estate broker (applicant is claiming type of seller entity as their invention).

Regarding claim 20, as responded to earlier, Good in view of Bezos and Galaty teaches paying the collective listing organization for referrals from the referring real estate broker to the listing real estate broker and leads that are owned by the listing real estate broker (applicant is claiming type of referring broker as their invention, applicant has claimed the limitation wherein the referring broker is the listing broker).

Regarding claim 21, as responded to earlier, Good in view of Bezos and Galaty teach paying the collective listing organization only for referrals from the referring.

Conclusion

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Naresh Vig
Examiner
Art Unit 3629

August 21, 2006